

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

(1)RAUL GONZALEZ MENDOZA,
(2)MARA MEJIA DE GONZALEZ,

Plaintiffs,

v.

(1)ZOMER BROTHERS, INC.,
(2)GREAT WEST CASUALTY CO.,
(3)DANIEL P. FINNEMAN, and
(4)ACME CORP.,

Defendants.

Case No. CIV-22-979-PRW
Okla. Cty. Case No. CJ-2022-5168

NOTICE OF REMOVAL

Defendant Zomer Brothers, Inc., (“Zomer”), Great West Casualty Co. (“GWCC”), and Daniel P. Finneman (“Finneman”) notify the Court and Plaintiffs Raul Gonzalez Mendoza (“Mendoza”) and Mara Mejia De Gonzalez (“Gonzalez”) of removal of this action from the Oklahoma District Court of Oklahoma County to the United States District Court for the Western District of Oklahoma. Removal of this action is authorized by 28 U.S.C. §§ 1332, 1441, and 1446. In support of their Notice of Removal, Zomer, GWCC, and Finneman state and allege the following:

1. The action styled *Raul Gonzalez Mendoza, Mara Mejia De Gonzalez, Plaintiffs v. Zomer Brothers Inc., Great West Casualty Co. Daniel P Finneman, and ACME Corp., Defendants*, Case No. CJ-2022-5168, commenced on October 19, 2022, in Oklahoma County District Court.

2. Defendant Zomer Brothers Inc. was served with Process on October 25, 2022.
3. Defendant Daniel P. Finneman was served with process on October 24, 2022.
4. Defendant Great West Casualty Company accepted service on November 14, 2022.
5. Defendant ACME Corp. has not been served with process and is in fact a placeholder corporation.
6. 28 U.S.C. § 1446(b)(2)(a) requires unanimity of all defendants served when removing a case to federal court. Because ACME is a placeholder corporation and has not been served with process, consent to removal from the unserved party is not necessary. *See Moreno Energy, Inc. v. Marathon Oil Co.*, 884 F. Supp. 2d 577 (S.D. Tex. 2012) (discussing exceptions to the rule of unanimity).
7. All served parties agree to removal of this case.
8. 28 U.S.C. § 1332 authorizes the Court to exercise original jurisdiction over this case because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the parties are citizens of different states.
9. Plaintiffs' Petition states they seek damages in excess of the amount required for diversity jurisdiction.

10. At the time Plaintiffs initiated this lawsuit, they were domiciled in Oklahoma County, State of Oklahoma.
11. Zomer Brothers is a South Dakota motor carrier incorporated in South Dakota with its principal place of business in South Dakota.
12. Great West Casualty Company is a Nebraska insurance corporation with its principal place of business in Nebraska.
13. Daniel P. Finneman is domiciled in South Dakota.
14. Complete diversity of citizenship exists because served Plaintiffs are citizens of Oklahoma and Defendants are citizens of Nebraska and South Dakota.
15. Because the Court has original jurisdiction, 28 U.S.C. § 1441(a) permits removal of this case to federal court.
16. Venue is appropriate in this Court because the District Court of Oklahoma County is located within this District.
17. Copies of all pleadings filed in the state court action are attached, as follows:

Exhibit 1: OSCN Docket Summary (November 11, 2022).

Exhibit 2: Petition (October 19, 2022).
18. In compliance with 28 U.S.C. § 1446(d), and contemporaneously herewith, Defendants Zomer, GWCC, and Finneman serve Plaintiffs' counsel with written notification of this Notice of Removal.

19. Defendants will also file a copy of this Notice with the Court Clerk of Oklahoma County, Oklahoma.

Because the Court has the authority to exercise original jurisdiction, Defendants Zomer Brothers Inc., Great West Casualty Co., and Daniel P. Finneman respectfully request that this case proceed as an action properly removed to federal court.

Respectfully submitted,

MILLER JOHNSON JONES
ANTONISSE & WHITE, PLLC



By: _____

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Casualty Co. and Daniel P. Finneman

CERTIFICATE OF SERVICE

I certify that on November 14, 2022, a true and correct copy of this document was sent to the following via:

- ☒ Email
- ☐ Facsimile
- ☐ USPS, First Class
- ☐ USPS, Certified, Return Receipt Requested
- ☐ USPS, Certified, Return Receipt (Electronic)
- ☐ USPS, Certified, Restricted Delivery

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